

Appln No. 10/688,781  
Amdt date November 8, 2006  
Reply to Office action of August 9, 2006

### **REMARKS/ARGUMENTS**

In the Office action dated August 9, 2006, the examiner rejected claims 1-4, 7-13 and 16 either under 35 U.S.C. § 102(e) as allegedly anticipated by, or under 35 U.S.C. § 103(a) as allegedly obvious over Kugai, et al. (U.S. Patent No. 6,699,619)("Kugai '619"). In response, applicant has amended independent claims 1 and 9 to recite that the lithium ion conductive material is  $\text{Li}_x\text{PO}_y$ , where  $2 < x < 4$  and  $3 < y < 5$ , canceled claims 2 and 10 and amended the dependencies of claims 3 and 11. Kugai '619 neither teaches nor suggests a lithium ion conductive material as now claimed by independent claims 1 and 9. Rather, Kugai '619 appears to disclose a  $\text{Li}_2\text{S-SiS}_2\text{-Li}_3\text{PO}_4$  target, a  $\text{Li}_2\text{S-SiS}_2\text{-Li}_4\text{SiO}_4$  target and a  $\text{Li}_2\text{S-SiS}_2\text{-Li}_2\text{SO}_4$  target. See column 2, lines 48-51; column 4, lines 15-18 and lines 24-27. Accordingly, independent claims 1 and 9, and all claims dependent therefrom, including claims 3, 4, 7, 8, 11-13 and 16, are allowable over Kugai '619.

The examiner also rejected claims 1-4, 7-13 and 16 under 35 U.S.C. § 103(a) as allegedly obvious over Kugai in view of any one of Takada, et al., U.S. Patent No. 6,200,707 ("Takada '707"), Takada, et al., U.S. Patent No. 6,368,743 ("Takada '743"), or Kugai, et al., U.S. Patent No. 6,713,216 ("Kugai '216"). However, none of Kugai '619, Takada '707, Takada '743 or Kugai '216 teach or suggest that the lithium ion conductive material is  $\text{Li}_x\text{PO}_y$ , where  $2 < x < 4$  and  $3 < y < 5$ , as recited in amended independent claims 1 and 9. Rather, Takada '707 and Takada '746 both disclose glasses, such as  $\text{Li}_2\text{S-SiS}_2$ ,  $\text{Li}_2\text{S-P}_2\text{S}_5$  and  $\text{Li}_2\text{S-B}_2\text{S}_3$ , doped with lithium salts, such as  $\text{Li}_3\text{PO}_4$ . See column 1, lines 53-59 in Takada '707, and column 1, lines 54-60 in Takada '746. In addition, Kugai '216 discloses similar target materials to that of Kugai '619, for example  $\text{Li}_2\text{S-SiS}_2\text{-Li}_3\text{PO}_4$ . Column 8, Example 5. Accordingly, independent claims 1 and 9, and all claims dependent therefrom, including claims 3, 4, 7, 8, 11-13 and 16, are allowable over Kugai '619, Kugai '216, Takada '707 and Takada '746.

In addition, the examiner provisionally rejected claims 1, 4-6, 8, 9, 12, 14-15, 17, 20-22 and 24 under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-5, 7-9, 11-12, 14-18 and 20 of copending U.S. Patent Application

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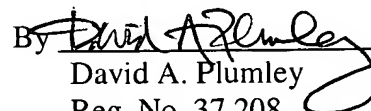
Serial No. 10/842,428). In response, applicant submits a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c). Accordingly, applicant requests withdrawal of this rejection.

Applicant notes that the examiner has rejected claims 5, 6, 14 and 15 only for obviousness-type double patenting. In light of the Terminal Disclaimer discussed above, applicant submits that the subject matter of these claims is allowable. Accordingly, applicant has amended claims 5 and 14 to place these claims in independent form, and submits that these claims are allowable. Claims 6 and 15 depend from allowable claims 5 and 14, respectively, and are also allowable.

Finally, the examiner objected to claims 18, 19 and 23 as being dependent upon a rejected based claim and indicated that these claims would be allowable if rewritten in independent form. However, these claims depend from independent claim 17, which is now allowable in light of the Terminal Disclaimer discussed above. Accordingly, applicant submits that claims 18, 19 and 23 are allowable.

Claims 1, 3-9 and 11-24 remain pending in this application. By this amendment, applicant has amended independent claims 1 and 9 and canceled claims 2 and 10. In light of the above amendments and remarks, applicant submits that all of pending claims 1, 3-9 and 11-24 are in condition for allowance. Applicant therefore respectfully requests a timely indication of allowance. However, if there are any remaining issues that can be addressed by telephone, applicant invites the examiner to contact applicant's counsel at the number indicated below.

Respectfully submitted,  
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